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SURFACE RIGHTS BOARD

SIXTEENTH ANNUAL REPORT

1987

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SIXTEENTH ANNUAL REPORT

of the

SURFACE RIGHTS BOARD

appointed under

the SURFACE RIGHTS ACT

for the year 1987

C.J. (CEC) PURVES

CHAIRMAN

L.N. MILLER

VICE-CHAIRMAN

MEMBERS:

J.J. Leddy

A.D. MacKenzie

F. Martin

H.R. Watson

E.A. Shupenia

T.A. Champion

Executive Directors

J.E. Hauck

Secretary

Honourable Shirley Cripps
Associate Minister of Agriculture
Room 319, Legislature Building
EDMONTON, Alberta
T5K 2B6

Madam:

I have the honour to submit the Sixteenth Annual Report of the Surface Rights Board for the calendar year 1987.

Some amendments to the Surface Rights Act were enacted during the spring sitting (1987) of the Legislature. The most notable amendment was the replacement of existing Sections 27 to 30 inclusive, dealing with review of compensation under Board Orders and Surface Leases, with a new Section 27 which allows the Board to hear similar evidence in respect of the rate of compensation under an order or surface lease. Section 23 was amended to allow the Board to schedule a compensation hearing within 90 days after the date of the issuance of a right of entry order thereby allowing the hearing to be held, in nearly all cases, after right of entry has been exercised.

Two Board Members took early retirement through the Early Retirement Incentive Program. The Board now consists of the Chairman, Vice-Chairman and four Members. We will be losing two more of our Board Members through Early Retirement early in 1988.

During the year I was able to attend and speak at a variety of functions, some of which are explained below.

I attended in Calgary at the Canadian Institute of Resources Law (Faculty of Law, University of Calgary) and spoke to the second year law students and I have had many discussions with the Institute on matters of Resource Law and the Surface Rights Board.

At the request of the Federal Department of Indian and Northern Affairs, I met with senior civil servants in the Natural Resources and Economic Division, Constitutional Development and Economic Resources section in Ottawa in March, 1987. The Department was in the process of preparing a "Northern Surface Rights Act" to be administered by local authorities throughout the north, and requested input from me as to the philosophies, policies and the law of general application of the Alberta Surface Rights Act. I also attended a conference of the Canadian Association for the Administration of Justice in Montreal in October. This conference dealt with the many aspects of Tribunals and their position within the legal system. Many learned experts internationally and nationally put on seminars and talks. The thrust was where do tribunals fit and what are some of the problems they and the Courts must deal with.

Mr. Les Miller, Vice-Chairman, attended the annual conference of the Council of Canadian Administrative Tribunals in Kingston, Ontario, in May. The conferences are held for the purpose of exchanging information on common problems and issues and the explanation of their treatment. Additionally, I have continued to meet with farm groups, individual landowners, the oil and gas industry, the utility companies and other interested groups regularly to hear their concerns relating to land use governed by the Surface Rights Act. During the latter part of 1986, I was invited by the Court of Queen's Bench to attend and speak at their educational seminar on the operations and problems faced by our Board. This certainly assisted our Board and I trust the Justices were able to get a better feel on how our Board operates. We are continually making it as clear as possible to all concerned that the Board is open and available to all for information and assistance.

The number of orders issued in 1987 totalled 2,479, the breakdown of which is as follows:

Right of Entry:	Mineral Recovery	172
	Power Transmission Lines ...	49
	Pipelines	96
	SUBTOTAL ...	317
Compensation		300
Termination		157
Rescission		28
Amending		1,256
Partial Termination		19
Termination of P.U.B. Order		5
Varying Rate of Compensation		299
Varying Rate of Compensation and Amending ...		98
		2,479

While the total number of applications for right of entry declined by only 13 (4%) in 1987, the number of applications for recovery of compensation pursuant to Section 39 increased dramatically (130 in 1987 compared to 30 in 1986, 33%), which indicates that the mineral operations are in the throes of tough economic times.

The number of appeals from Board compensation orders to the Courts in 1987 dropped by 25%, from 82 in 1986 to 60 in 1987 and we are pleased with this trend.

The attached statements, 1 to 13, inclusive, provide a detailed analysis of the number, nature and status of all applications received in 1987; statement 14 summarizes the number of applications scheduled for hearing and the number of applications heard during 1987; and statement 15 relates to the appeals to the Courts from orders of the Board.

Attached also is Chart Number 16 indicating the number and type of applications filed with the Board compared to the number and type of licenses issued by the E.R.C.B. We have included percentages where meaningful.

Respectfully submitted.

C. J. (Cec) Purves
Chairman

STATEMENT 1

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR OIL AND GAS
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	17	51	68
Received during the year	39	153	192
	56	204	260
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	35	125	160
- settled independently of Board	3	17	20
No Right of Entry granted			
- application withdrawn	1	6	7
- settled privately	4	13	17
	43	161	204
APPLICATIONS OUTSTANDING:	13	43	56

STATEMENT 2

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR PIPELINES
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	2	61	63
Received during the year	17	92	109
	19	153	172
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	10	81	91
- settled independently of Board	2	11	13
No Right of Entry granted			
- application withdrawn	0	3	3
- settled privately	4	8	12
	16	103	119
APPLICATIONS OUTSTANDING:	3	50	53

STATEMENT 3

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR POWER TRANSMISSION LINES
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	3	33	36
Received during the year	1	41	42
	4	74	78
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	0	33	33
- settled independently of Board	0	25	25
No Right of Entry granted			
- application withdrawn	0	1	1
- settled privately	0	4	4
	0	63	63
APPLICATIONS OUTSTANDING:	4	11	15

STATEMENT 4

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR COAL AND OTHER
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	0	2	2
Received during the year	0	0	0
	0	2	2
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	0	2	2
- settled independently of Board	0	0	0
No Right of Entry granted			
- application withdrawn	0	0	0
- settled privately	0	0	0
	0	2	2
APPLICATIONS OUTSTANDING:	0	0	0

STATEMENT 5

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR ALL APPLICATIONS FOR RIGHT OF ENTRY
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS:			
Carried over from previous year	22	147	169
Received during the year	57	286	343
	79	433	512
APPLICATIONS DISPOSED OF:			
Right of Entry granted			
- compensation determined	45	241	286
- settled independently of Board	5	53	58
No Right of Entry granted			
- application withdrawn	1	10	11
- settled privately	8	25	33
	59	329	388
APPLICATIONS OUTSTANDING:	20	104	124

STATEMENT 6

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR TERMINATION OF RIGHT OF ENTRY IN FULL
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS RECEIVED:			
Carried over from previous year	1	11	12
Received during the year	37	126	163
	38	137	175
APPLICATIONS DISPOSED OF:			
Request for termination granted	37	125	162
Request for termination withdrawn	1	5	6
	38	130	168
APPLICATIONS OUTSTANDING:	0	7	7

STATEMENT 7

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR TERMINATION IN PART OF RIGHT OF ENTRY
dealt with in 1987

	CROWN	PRIVATE	TOTAL
APPLICATIONS RECEIVED:			
Carried over from previous year	2	1	3
Received during the year	13	5	18
	15	6	21
APPLICATIONS DISPOSED OF:			
Request for termination in part granted	13	5	18
Request for termination in part withdrawn ...	2	1	3
	15	6	21
APPLICATIONS OUTSTANDING:	0	0	0

STATEMENT 8

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS
PURSUANT TO SECTION 27 OF THE SURFACE RIGHTS ACT
dealt with in 1987

APPLICATIONS RECEIVED:

Carried over from previous year	5
Received during the year	24
	29

APPLICATIONS DISPOSED OF:

Heard and compensation determined	6
Settled independently of Board	7
Withdrawn	0
Rejected - lack of jurisdiction	0
	13

APPLICATIONS OUTSTANDING: 16

STATEMENT 9

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS
PURSUANT TO SECTION 28 OF THE SURFACE RIGHTS ACT
dealt with in 1987

APPLICATIONS RECEIVED:

Carried over from previous year	1
* Received during the year	1
	2

APPLICATIONS DISPOSED OF:

Heard and compensation determined	2
Settled independently of Board	0
Withdrawn	0
Rejected - lack of jurisdiction	0
	2

APPLICATIONS OUTSTANDING: 0

* All applications received after July 1, 1987, were dealt with under Section 27 as a result of the amendments of the Surface Rights Act.

STATEMENT 10

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS
PURSUANT TO SECTION 29 OF THE SURFACE RIGHTS ACT
dealt with in 1987

APPLICATIONS RECEIVED:

Carried over from previous year	49
* Received during the year	26
	75

APPLICATIONS DISPOSED OF:

Heard and compensation determined	38
Settled independently of Board	23
Withdrawn	6
Rejected - lack of jurisdiction	1
	68

APPLICATIONS OUTSTANDING: 7

* All applications received after July 1, 1987, were dealt with under Section 27 as a result of the amendments of the Surface Rights Act.

STATEMENT 11

SURFACE RIGHTS BOARD

SUMMARY OF RATE OF COMPENSATION REVIEWS
PURSUANT TO SECTION 30 OF THE SURFACE RIGHTS ACT
dealt with in 1987

APPLICATIONS RECEIVED:

Carried over from previous year	66
* Received during the year	53
	119

APPLICATIONS DISPOSED OF:

Heard and compensation determined	55
Settled independently of Board	41
Withdrawn	22
Rejected - lack of jurisdiction	0
	118

APPLICATIONS OUTSTANDING: 1

* All applications received after July 1, 1987, were dealt with under Section 27 as a result of the amendments of the Surface Rights Act.

STATEMENT 12

SURFACE RIGHTS BOARD

SUMMARY OF SETTLEMENTS OF DISPUTES
PURSUANT TO SECTION 33 OF THE SURFACE RIGHTS ACT
dealt with in 1987

APPLICATIONS RECEIVED:

Carried over from previous year	1
Received during the year	6
	7

APPLICATIONS DISPOSED OF:

Heard and compensation determined	3
Settled independently of Board	1
Withdrawn	0
Rejected - lack of jurisdiction	0
	4

APPLICATIONS OUTSTANDING: 3

STATEMENT 13

SURFACE RIGHTS BOARD

SUMMARY OF ALL APPLICATIONS FOR RECOVERY OF RENTAL PURSUANT TO SECTION 39 OF THE SURFACE RIGHTS ACT dealt with in 1987

APPLICATIONS RECEIVED:	
Carried over from previous year	17
Received during the year	112
	129
APPLICATIONS DISPOSED OF:	
Completed:	
Paid by Provincial Treasurer	55
Paid by Operator	35
Rejected - lack of jurisdiction	1
	91
APPLICATIONS OUTSTANDING:	38

STATEMENT 14

SURFACE RIGHTS BOARD

SUMMARY OF BOARD HEARINGS DURING 1987

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS
NO. OF APPLICATIONS SCHEDULED	78	73	57	48	29	63	51	60	59	64	77	77	736
NO. OF APPLICATIONS RESCHEDULED	21	14	9	10	11	20	8	6	18	16	5	7	145
NO. OF APPLICATIONS ADJOURNED	--	--	--	--	--	9	1	--	1	--	--	2	13
NO. OF APPLICATIONS POSTPONED	--	--	--	--	--	--	--	1	--	1	--	1	3
NO. OF APPLICATIONS SETTLED	13	22	21	20	1	2	17	18	14	11	10	14	163
TOTALS	112	109	87	78	41	94	77	85	92	92	92	101	1,060
NO. OF APPLICATIONS HEARD AND COMPLETED													
Mineral Recovery	17	11	9	9	6	6	8	4	12	24	36	26	168
Pipelines	3	20	5	1	--	6	14	2	3	4	24	14	96
Power Transmission lines	4	2	9	3	5	2	2	--	7	2	1	7	44
Reviews	17	4	3	5	3	18	--	29	4	4	--	5	92
Objections	--	--	--	--	--	--	1	--	--	--	1	--	2
Damages	1	--	--	--	--	--	--	--	--	2	--	--	3
Inquiries	2	--	--	--	--	--	--	--	--	--	--	--	2
Costs	--	--	--	--	--	--	--	--	--	--	--	1	1
Coal Mines	--	--	--	--	--	--	--	--	--	--	--	--	---
Expropriation	--	--	--	--	--	--	--	--	--	--	--	--	---
Other	--	--	1	--	3	--	--	--	--	--	--	--	4
TOTALS	44	37	27	18	17	32	25	35	26	36	62	53	412

STATEMENT 15

SURFACE RIGHTS BOARD

SUMMARY OF APPEALS FROM DECISIONS OF THE BOARD TO THE COURTS UNDER THE SURFACE RIGHTS ACT

	BY OPERATOR	BY LANDOWNER	CROSS-APPEALED	TOTAL
Carried over from previous year	59	108	2	169
No. of Applications upon which Notices were filed during 1987	41	18	1	60
	100	126	3	229
DISPOSITION OF APPEALS				
Abandoned, Settled, Withdrawn or discontinued before being heard by the Courts	17	74	2	93
Dealt With by Courts				
Heard and Dismissed (Board Award Upheld).....	11	7	0	18
Heard and Board Award Increased	0	16	0	16
Heard and Board Award Decreased	6	2	0	8
TOTAL DISPOSED OF	34	99	2	135
OUTSTANDING:	66	27	1	94

STATEMENT 16

SURFACE RIGHTS BOARD

NUMBER OF E.R.C.B. PERMITS AND WELL LICENCES
COMPARED
TO SURFACE RIGHTS BOARD APPLICATIONS

1987	E.R.C.B.	SURFACE RIGHTS BOARD	PERCENTAGE
Well Licences	5,426	192	3.5
Pipeline Permits	1,991	109	5.4
1986			
Well Licences	4,620	141	3.1
Pipeline Permits	2,095	173	8.2
1985			
Well Licences	8,763	409	4.7
Pipeline Permits	2,127	272	12.8
1984			
Well Licences	7,178	383	5.4
Pipeline Permits	2,005	357	17.8
1983			
Well Licences	4,935	503	10.2
Pipeline Permits	1,881	255	13.6

The E.R.C.B. processes approximately 100 applications per year in their Hydro and Power Line Divisions, but these include many applications for changes to existing structures such as substations, so a meaningful comparison to Surface Rights Board applications is not possible.